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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
KALAMAZOO DISTRICT OFFICE



DAN WYANT  
DIRECTOR

July 7, 2014

Betsy Nightingale  
Federal On-Scene Coordinator  
United States Environmental Protection Agency, Region 5  
9311 Groh Road  
Grosse Ile, MI 48138

Dear Ms. Nightingale:

SUBJECT: State Applicable and Relevant and Appropriate Requirements (ARARs) for the Alreco Metals (Tobian Metals) Site, Benton Harbor, Berrien County

Per your request in the email dated July 7 for identification of all Applicable, Relevant and Appropriate Requirements (ARARs) for the potential upcoming removal actions at the Alreco Metals (Tobian Metals) site in Benton Harbor, I have compiled a listing for your attention.

REGULATORY REQUIREMENTS

1.01 APPLICABLE CODES

The Contractor shall comply with all State rules, ordinances and regulations relating to buildings, employment, the preservation of public health and safety, and so forth. All necessary permits or certificates of inspection shall be paid for and obtained by the Contractor.

1.02 APPLICABLE REGULATIONS

All applicable federal, state and local laws, ordinances, rules and regulations, are deemed to be included herein the same as though written in full. The Contractor shall comply with all authorities having jurisdiction over the work. The following list of regulations which may be applicable to site activities and off-site transportation and disposal. All regulations listed shall be as amended.

A. Federal Regulations

1. Asbestos abatement in accordance with:
  - a. Title II of Toxic Substances Control Act of 1979 (TSCA)
  - b. Asbestos Hazard Emergency Response Act (AHERA)
  - c. Asbestos School Hazard Abatement Reauthorization Act (ASHARA)
  - d. National Emission Standards for Asbestos (40 CFR 61, Subpart M)
  - e. Asbestos Abatement Regulations (40 CFR 763)
2. Disposal of hazardous wastes including land disposal restricted wastes at treatment and disposal facilities that are appropriately permitted in accordance with:

- a. Resource Conservation and Recovery Act of 1976 (RCRA)
    - (1) Identification and Listing of Hazardous Wastes (40 CFR 261)
    - (2) Generator Standards (40 CFR 262)
    - (3) Transporter Standards (40 CFR 263)
    - (4) TSDF Standards (40 CFR 264)
    - (5) RCRA Land Disposal Restrictions (40 CFR 268)
    - (6) Hazardous Waste Permit Program (40 CFR 270)
  - b. Toxic Substances Control Act of 1979 (TSCA)
    - (1) PCB Manufacturing, Processing, Distribution, and Use Prohibitions (40 CFR 761)
    - (2) PCB Remediation Waste (40 CFR 761.61)
  - c. Compliance with the United States Environmental Protection Agency's (USEPA's) off-site disposal policy. Prior to Shipment of wastes to any facility, provide evidence of the Owner that the facility has been inspected in accordance with the requirements of RCRA within the prior six-month period and found to be in compliance as required y USEPA's off-site disposal policy.
3. Transport waste in accordance with:
- a. All applicable U.S. Dept. of Transportation rules and regulations
  - b. USEPA rule and regulations including:
    - (1) Hazardous Waste Management Systems (40 CFR 260)
    - (2) Standards Applicable to Generators (40 CFR 262)
    - (3) Standards Applicable to Transporters of Hazardous Wastes (40 CFR 263)
  - c. Polychlorinated Biphenyls (PCB) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions
  - d. United States Department of Labor (USDOL) Occupational Safety and Health Standards (29 CFR 1910)
  - e. U.S. DOT Hazardous Material Regulations (49 CFR Subchapter C, Parts 171-177)
  - f. U.S. DOT Container Specifications (49 CFR 178-179)
4. Conduct all site work in accordance with the contractors site-specific Health and Safety Plan and applicable federal regulations
- a. USDOL Occupational Safety and Health Standards (29 CFR 1910, 1926).
  - b. USEPA Hazardous Waste Management Systems (40 CFR 260)
  - c. Standards Applicable to Generators of Hazardous Waste (40 CFR 262).
  - d. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (40 CFR 264) and National Emission Standards for Asbestos (subpart M of 40 CFR 61).

B. State Regulations

- 1. Public Act No. 154 of 1954, Occupational Safety and Health Act, as amended
- 2. Public Act No. 299 of 1980, Occupational Code, as amended

3. Public Act No. 451 of 1994, Natural Resources and Environmental Protection Act, as amended to include but not be limited to:
  - a. Part 17 of Public Act No. 451 of 1994, Michigan Environmental Protection Act
  - b. Part 31 of Public Act No. 451 of 1994, Water Resources Protection
  - c. Part 55 of Public Act No. 451 of 1994, Air Pollution Control
  - d. Part 91 of Public Act No. 451 of 1994, Soil Erosion and Sedimentation Control
  - e. Part 111 of Public Act No. 451 of 1994, Hazardous Waste Management
    - (1) Disposal of all wastes must comply with all intercounty waste management plans.
    - (2) Treatment of wastes through states other than Michigan shall be in compliance with all applicable requirements of those states.
  - f. Part 115 of Public Act No. 451 of 1994, Solid Waste Management
    - (1) Disposal of all wastes must comply with all intercounty waste management plans.
    - (2) Treatment of wastes through states other than Michigan shall be in compliance with all applicable requirements of those states.
  - g. Part 121 of Public Act No. 451 of 1994, Liquid Industrial Wastes
  - h. Part 147 of Public Act No. 451 of 1994, PCB Compounds
  - i. Part 201 of Public Act No. 451 of 1994, Environmental Response
  - j. Part 211 of Public Act No. 451 of 1994, Underground Storage Tank Regulations
  - k. Part 213 of Public Act No. 451 of 1994, Leaking Underground Storage Tanks
4. Act 207 of the Public Acts of 1941, Section 3c, State of Michigan Fire Safety Board Rules, Underground Storage Tank Systems, Storage of Flammable and Combustible Liquids, being Section 29.3c of the Michigan Compiled Laws, as amended.
5. Act 423 of the Public Acts of 1984, Sections 2 and 7, being Sections 29.3c, 299.702, and 299.707 of the Michigan Compiled Laws, as amended.
6. Disposal shall be in compliance with Administrative Circular 36A (Appendix G).
7. Transportation, traffic control, etc. shall be in compliance with 1990 Standard Specifications for Construction, Michigan Department of Transportation, as amended.
8. Public Act No. 135 of 1986, Asbestos Abatement Contractor Licensing.

C. Local Requirements

1. Ascertain and comply with all applicable county and municipal ordinances, codes, rules, and regulations and obtain all required permits including seasonal load limits, which may be imposed to cover transportation on certain roads.

D. Other Codes, Standards, and Guidance Documents

1. In addition to regulatory requirements, the Contractor shall follow the codes, standards, and guidance documents cited in other of these specifications such as, but not limited to, API Recommended Practices, EPA Guidance Documents, Michigan State Memos and Administrative Circulars, and ASTM Standards.
2. Other national codes which the Contractor shall comply with for all site work that are not specifically cited in other sections include:
  - a. BOCA-Building Officials and Code Administrators-"Basic Building Code".
  - b. AGC-Associated General Contractors of America-"Manual of Accident Prevention in Construction".
  - c. NEC-National Electrical Code.

If I can provide any additional information, please contact me. I appreciate your assistance and look forward to the upcoming remediation events on this property.

Sincerely,



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